

MINUTES

NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

EDUCATION AND TRAINING COMMITTEE

May 20, 2015

The Education and Training Committee of the North Carolina Criminal Justice Education and Training Standards Commission met in Room 1826 of the Public Safety Training Center, Wake Technical Community College, Raleigh, NC. Chairperson Robin Pendergraft called the meeting to order at 1:30 p.m.

Those in attendance were:

- *Robin Pendergraft, Attorney General of the State of North Carolina – Ex-Officio Member
- *Lee Farnsworth, NC Law Enforcement Officers' Association
- *Corporal Melissa Hinnant, NC Law Enforcement Women's Association
- *Chief Bill Hollingsed, NC Police Executives Association
- *Tracy McPherson, Dept. of Community Colleges - Ex-Officio Member
- *Nathan Mizell, Jr., NC Law Enforcement Training Officers' Association
- *Dr. Bob Ruth, NC Criminal Justice Association
- *Lt. Yolanda Sparrow, North State Law Enforcement Officers' Association

Visitors

Chief Scott Cunningham, NC Association of Chiefs of Police
Grant Pendergraft
Joyce Ruth, Wife of Commissioner Dr. Bob Ruth
Jeff Welty, UNC School of Government - Ex-Officio Member
Marion Williams, Intern, NC Justice Academy

Staff

Trevor Allen, NC Criminal Justice Standards Division
Wayne Ayers, NC Justice Academy
John Combs, NC Justice Academy
Steven G. Combs, Director, NC Criminal Justice Standards Division
Gary Dudley, NC Justice Academy
Jennifer Fisher, NC Justice Academy
Stacy Holloman, NC Justice Academy
Darlene Jackson, NC Justice Academy
Tim Pressley, NC Criminal Justice Standards Division
Dawn Suffel, NC Criminal Justice Standards Division
Mark Strickland, Director, NC Justice Academy
Dan Worley, NC Justice Academy

*Committee Members

WELCOME/ROLL CALL

Chairperson Robin Pendergraft welcomed members and guests. The meeting was called to order and the roll was called. A quorum was present.

MINUTES

Commissioner Lee Farnsworth proposed a **motion** to accept the minutes of the February 12, 2015 meeting with a **second** from Commissioner Melissa Hinnant, **motion carried**.

ELECTION OF VICE-CHAIR

Chairperson Robin Pendergraft opened the floor for Vice Chair nominations. Commissioner Lee Farnsworth **nominated** Commissioner Steve Johnson with a **second** from Commissioner Bob Ruth. With no other nominations, Chairperson Pendergraft closed the nominations and called for a vote. Commissioner Steve Johnson was elected as Vice-Chair of the Education and Training Committee.

COMMISSION ACTION

ADMINISTRATIVE CODE – PROPOSED RULE REVISIONS

On behalf of the Criminal Justice Standards Division Staff, Deputy Director Trevor Allen presented proposed rule changes for the Criminal Justice Education & Training Standards Commission to address a variety of recently identified issues.

The requests would require rule changes for the following rules:

- 12 NCAC 09C.0401 - Certification of Criminal Justice Schools
- 12 NCAC 09C.0206 - Summary Suspensions
- 12 NCAC 09A.0103 - Definitions
- 12 NCAC 09B.0401 - Time Requirements for Completion of Training
- 12 NCAC 09B.0403 - Evaluation for Training Waiver
- 12 NCAC 09B.0106 - Documentation of Educational Requirements
- 12 NCAC 09B.0203 - Admission of Trainees
- 12 NCAC 09B.0302 - General Instructor Certification
- 12 NCAC 09B.0501 - Certification of School Directors
- 12 NCAC 09G.0204 - Education
- 12 NCAC 09G.0308 - General Instructor Certification
- 12 NCAC 09G.0405 - Certification of School Directors
- 12 NCAC 09B.0502 - Terms and Conditions of School Director Certification
- 12 NCAC 09E.0109 - In-Service Training Coordinator Requirements
- 12 NCAC 09B.0232 - Specialized Subject Control/Arrest Techniques Instructor Training
- 12 NCAC 09B.0233 - Specialized Physical Fitness Instructor Training

Prior to presenting the proposed rule revisions, Deputy Director Trevor Allen informed the committee that due to Tim Pressley retiring, this will be his final Commission meeting. Mr. Allen thanked Mr. Pressley for his service and commitment to the NC Criminal Justice Standards Division.

Deputy Director Trevor Allen then presented proposed rule revisions to **12 NCAC 09C.0401-Certification of Criminal Justice Schools**. This rule governs the certification of schools delivering Commission training across the State. Mr. Allen said the code contradicts itself by referring to the “accreditation” of schools in Section .0400, but referring to “certification” of schools in Rule 09C.0401. Commission Staff recommended using the term “accreditation” instead of “certification” throughout the rule.

Rule **12 NCAC 09C.0401** also establishes a subcommittee of the Education and Training Committee to be called the “Certification Committee”, whose role is to review and recommend the certification of schools to the E&T Committee and the full Commission. The makeup of this committee is established by this rule, requiring that two (2) members of the School Director Advisory Committee, the NC Community Colleges representative to the Commission, and one (1) other commissioner be appointed. The Chair of the committee is to be appointed by the Chairman of the Commission. Mr. Allen stated the issue is that a couple of the school directors that were a part of that School Director Advisory Committee, who served on this subcommittee for a while, are no longer school directors. Division Staff feels the need to establish whether they should be replaced by current school directors and members of that advisory committee. There was discussion among the Education and Training Committee that since Division Staff does such a thorough job of dealing with any problems and deficiencies that may arise, the need for a standing subcommittee may no longer exist.

Commissioner Tracy McPherson proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend the rule, **12 NCAC 09C.0401 – Certification of Criminal Justice Schools**, as follows:

- Modify the title of the rule to read “Accreditation of Criminal Justice Schools” and modify the language throughout the rule as follows:
 - Change the word “Certification” to “Accreditation.”
 - Change the word “Recertification” to “Reaccreditation.”
- Remove paragraph (a) that establishes the Sub-Committee based on the recommendations of the staff.

With a **second** from Commissioner Nathan Mizell, **motion carried.**

At the suggestion of Commissioner Steve Johnson, Deputy Director Trevor Allen presented proposed revisions to **12 NCAC 09A.0206** in order to provide discretion and authority to the Standards Division Director to suspend CCH instructor certification, on behalf of the Commission, when it is found that the instructor has failed to deliver a training course in conformity with CCH rules. Commissioner Tracy McPherson raised the question of how would an instructor be found to have failed to deliver the program? Wayne Ayers explained that the program consists of eight (8) hours in the classroom, along with a qualification period. In past years there have been shortcuts. Most of the shortcuts have been when the instructors have failed to deliver the 8- hour training period. There are known cases when the instructors have sent videos for students to work, and the instructors did not even show up. Mr. Ayers stated that currently there is no penalty if someone was not delivering the program the way the rules are written. They could keep delivering the course until probable cause had a chance to look at it. Steve Johnson is recommending stopping them immediately, and having someone to review it to make sure they are in compliance. Commissioner Robin Pendergraft inquired as to whether legal counsel has reviewed this recommendation, since this would be taking an immediate action. Mr. Trevor Allen responded that he has not submitted it for legal review, but he does typically after Staff gets authority granted to pursue the revision.

Commissioner Lee Farnsworth proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend the rule, **12 NCAC 09C.0206 – Summary Suspensions**, as follows:

- Add paragraph (f) that provides the Director the authority to summarily suspend, on behalf of the Commission, a Concealed Handgun Instructor certification when the instructor is found to have failed to deliver a Concealed Carry Handgun training course in conformity with rule **12 NCAC 09F.0102 and 12 NCAC 09F.0105**. In addition, the subparagraphs (1) and (2) of paragraph (f) allow the Director to issue a “cease and desist notice” to the instructor until the training is brought into compliance and allows the instructor to appeal the Director’s suspension to the Probable Cause Committee.

With a **second** from Commissioner Melissa Hinnant, **motion carried**.

Deputy Director Trevor Allen presented a proposal in response to the military transfer issue for military trained individuals to obtain certification through the Commission. Mr. Allen noted that at the March 23, 2015 special meeting of the Commission, it was discussed that there should be a mechanism for active duty members of the armed forces to obtain a law enforcement officer certification that would be valid after they separated from the military in order to be able to work in the field. In order to provide this opportunity to active duty military members, Mr. Allen presented proposed revisions to the following three (3) rules: **12 NCAC 09A.0103; 12 NCAC 09B.0401; and 12 NCAC 09B.0403**.

In regards to **12 NCAC 09A.0103**, Commissioner Tracy McPherson stated she did not have questions about the rule itself; however, she did have concerns about the definition/s of “active duty military” and “full-time National Guard duty”. Ms. McPherson

asked why use the term “full-time”? Was there anything such as “part-time” National Guard duty? Does “active military” include National Guard? Commissioner McPherson said she was trying to decide whether she was voting for something, or against something, that is purposely excluding National Guard individuals that would otherwise be included if the wording was different. Mr. Trevor Allen noted that he used the federal government definition of “Active Duty Military.” Ms. McPherson commented that she has learned, through working with community colleges, the same terms may be used for different purposes in different ways. She stated she did not feel that the definition of “active duty military” used in this rule was the universal definition. Although she was in favor of the rule change, she would vote against it unless the minutes reflected the intent of the definition. Commissioner Lee Farnsworth stated that he felt the intent of the definition were for those employees of the National Guard who are not active military. He said at the state level, there are full-time employees of the National Guard who are guardsman, and they are not active duty. If they are activated, they are no longer a guardsman; they become a part of the U.S. Army or one of the other branches of service. Commissioner McPherson reiterated that she was not opposed to the rule itself, but was opposed to voting for something of which she was not clear of the definition.

Commissioner Lee Farnsworth proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend the rules, **12 NCAC 09A.0103 – Definitions**, as follows:

- **12 NCAC 09A.0103 – Definitions:** Adds a new paragraph (1) which defines the term “Active Duty Military” and re-numbers the remaining paragraphs sequentially.

With a **second** from Commissioner Robert Ruth, Commissioner Tracy McPherson opposed, **motion carried.**

In regards to **12 NCAC 09B.0401 – Time Requirements for the Completion of Training**, Commissioner Nathan Mizell questioned whether there were any mechanisms in place to obtain the mandatory yearly in-service training for individuals who are not sworn law enforcement. Committee members discussed that online courses are available through the NC Justice Academy, as well as community colleges. The Committee felt that any potential issues could be resolved to make the mandatory yearly training available to those who need it.

Commissioner Lee Farnsworth proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend the rules **12 NCAC 09B.0401 – Time Requirements for the Completion of Training and 12 NCAC 09B.0403 – Evaluation for Training Waiver**, in order to provide a pathway for active duty members of the armed forces to obtain a law enforcement officer certification as follows:

- **12 NCAC 09B.0401 – Time Requirements for Completion of Training:** adds a new paragraph (e) which allows a trainee who is on active military duty and has completed BLET in its entirety, to be eligible for a

probationary certification, in accordance with the provisions of **12 NCAC 9C.0303**, within one year of separation from active duty military.

➤ **12 NCAC 09B.0403 – Evaluation for Training Waiver:**

- Modifies the language in paragraph (a), subparagraph (17a) to address active duty members of the armed forces.
- As recommended by the staff, adds a subparagraph (18) of paragraph (a) which further addresses the probationary certification of active duty military members who complete BLET and Annual In-Service training requirements.

With a **second** from Commissioner Melissa Hinnant, **motion carried.**

Deputy Director Trevor Allen then presented proposed rule revisions to **12 NCAC 09B.0106 – Documentation of Educational Requirements, 12 NCAC 9B.0203 – Admission of Trainees, 12 NCAC 09B.0302 - General Instructor Certification, 12 NCAC 09B.0501 - Certification of School Directors, 12 NCAC 09G.0204 - Education, 12 NCAC 09G.0308 - General Instructor Certification, 12 NCAC 09G.0405 - Certification of School Directors.** Mr. Allen explained that the General Education Development (GED) test has been used as a screening mechanism to test for high school equivalency for both Commission training and certification. However, the GED was purchased by Pearson-VUE, a private company, who now owns a trademark for the test. Division Staff proposed the revisions in order to more accurately define high school equivalency, while removing all notations of GED. Mr. Allen also asked if further clarification needed to be included as to which tests count as high school equivalency. Commissioner Robin Pendergraft recommended leaving the language as it is written. The Committee could add more interpretative language later, if Division Staff and Legal Staff feel it is necessary.

Commissioner Lee Farnsworth proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend the rules, **12 NCAC 09B.0106 – Documentation of Educational Requirements, 12 NCAC 9B.0203 – Admission of Trainees, 12 NCAC 09B.0302 - General Instructor Certification, 12 NCAC 09B.0501 - Certification of School Directors, 12 NCAC 09G.0204 - Education, 12 NCAC 09G.0308 - General Instructor Certification, 12 NCAC 09G.0405 - Certification of School Directors as follows:**

- Modify the language in the above listed rules, in order to more accurately define high school equivalency requirements and remove the wording of “GED and/or General Equivalency Testing”, as recommended by the staff.

With a **second** from Commissioner Melissa Hinnant, **motion carried.**

Deputy Director Trevor Allen presented proposed rule revisions to **12 NCAC 09B.0502 – Terms and Conditions of School Director Certification**, in order to specify the requirements of school directors for specific training programs. Currently, the rule requires school directors to maintain and comply with the BLET Course Management Guide. However, many school directors deliver Speed Measurement Instructor or Specialized Instructor training programs, as opposed to BLET. Mr. Allen indicated the proposed revisions would clarify the requirements for the specific training program being delivered.

Commissioner Nathan Mizell proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend **12 NCAC 09B.0502** in order to specify certain requirements for school directors that deliver Specialized Instructor Training and Speed Measurement Instrument Instructor Training programs as follows:

- Add a paragraph that outlines that all school directors participate in annual training provided by the Division Staff; maintain current training materials of all the courses delivered; and perform all duties required in rule **12 NCAC 09B.0202**.

With a **second** from Commissioner Lee Farnsworth, **motion carried**.

Deputy Director Trevor Allen presented proposed rule revisions to **12 NCAC 09E.0109 – In-Service Training Coordinator Requirements**. Mr. Allen noted that at the February 2015 Education and Training Standards Committee meeting, it was proposed to allow agency heads to recommend certification and re-certification for specialized instructors. This was proposed in order to provide a way for agencies with only one specialized instructor, who was also the In-Service Coordinator, to obtain a recommendation for certification. At the February 2015 Committee meeting, it was also decided that since Criminal Justice Standards could certify more than one In-Service Training Coordinator per agency, the appropriate revision would be to Rule **12 NCAC 09E.0109**.

Commissioner Lee Farnsworth proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend the following rule, **12 NCAC 09E.0109 – In-Service Training Coordinator Requirements** as follows:

- Modify the language in the rule as recommended by the Staff in order to allow agencies to have more than one In-Service Training Coordinator.

With a **second** from Commissioner Melissa Hinnant, **motion carried**.

On behalf of the Specialized Subject Control/Arrest Techniques Instructor Training Committee, Mr. John Combs, North Carolina Justice Academy, presented the recommended changes to the topical listing in the current rules **12 NCAC 09B.0232 and 12 NCAC 09B.0233**. The recommended changes provide a more accurate reflection of the current course delivery. In addition, the committee recommended changing the course hours from 78 to 75 hours. This change removes the 3 one-hour supervised physical fitness workouts that are currently in the course. The students are required to

pre-qualify for the course at a 60th percentile fitness level. Removing the physical fitness sessions will reduce the physical workload, and allow the students more rest in an already physically demanding program that utilizes physical skills sessions.

Commissioner Melissa Hinnant proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend the following rule, **12 NCAC 09B.0232 – Specialized Subject Control/Arrest Techniques Instructor Training** to change the course training hours from 78 to 75, and to modify to topical outline in order to accurately reflect the course content, with a **second** from Commissioner Nathan Mizell, **motion carried.**

Commissioner Nathan Mizzell proposed a **motion** that the Commission hereby authorize the Planning and Standards Committee to conduct a rule making hearing to amend the following rule, **12 NCAC 09B.0233 – Specialized Physical Fitness Instructor Training** to modify the topical outline in order to accurately reflect the course content, with a **second** from Commissioner Melissa Hinnant, **motion carried.**

The Committee took a ten-minute break at 2:50 p.m., and the meeting re-convened at 3:00 p.m.

COMMITTEE ACTION

SPECIALIZED SUBJECT CONTROL AND PHYSICAL FITNESS COMMITTEE - BLET Recommended Changes

On behalf of the Specialized Subject Control/Arrest Techniques Instructor Training Committee, Mr. John Combs, North Carolina Justice Academy, presented a proposed change to the BLET POPAT fence height. The committee recommends that the fence height be a 4 foot fence with a plus or minus 5 inch margin standard from the current plus or minus 3 inch margin. This change will allow the schools more flexibility in utilizing their current equipment without placing the student at any disadvantage. Commissioner Lee Farnsworth proposed a **motion** to accept this recommendation, with a **second** from Commissioner Melissa Hinnant, **motion carried.**

In addition, on behalf of the Specialized Subject Control/Arrest Techniques Instructor Training Committee, Mr. John Combs, North Carolina Justice Academy, presented the recommendation of adopting a revised POPAT Evaluation Form for both BLET and the Specialized Physical Fitness Instructor Training course. Commissioner Nathan Mizell proposed a **motion** to accept this recommendation, with a **second** from Commissioner Lee Farnsworth, **motion carried.**

SPECIALIZED SUBJECT CONTROL AND PHYSICAL FITNESS COMMITTEE - Specialized Subject Control/Arrest Techniques Instructor Training Recommended Changes

On behalf of the Specialized Subject Control/Arrest Techniques Instructor Training Committee, Mr. John Combs, North Carolina Justice Academy, requested that the North Carolina Justice Academy be granted pilot authority to deliver Specialized Subject Control/Arrest Techniques Instructor Training in accordance with the newly proposed rule change until the rule change takes effect. Commissioner Lee Farnsworth proposed a **motion** to accept this recommendation, with a **second** from Commissioner Nathan Mizell, **motion carried**.

SCHOOL ACCREDITATION COMMITTEE

On behalf of the School Accreditation Subcommittee, Commissioner Tracy McPherson proposed a **motion** that the following institutions be reaccredited for a period of five (5) years in accordance with ***12 NCAC 09B.0200 and 12 NCAC 09C.0401*** for the delivery of the Commission regulated training:

- Renewal – Cary Police Department - SMI
- Renewal – Davidson Community College – BLET, SMI, and General Instructor Training
- Renewal – Haywood Community College - BLET
- Renewal – Johnston Community College - BLET, SMI, and General Instructor Training
- Renewal – Randolph Community College - BLET, SMI, and General Instructor Training
- Renewal – Stanly Community College – BLET and SMI

With a **second** from Commissioner Bob Ruth, **motion carried**.

SPEED MEASURING INSTRUMENT ADVISORY COMMITTEE - Additions of Speed Measuring Instruments

On behalf of the Speed Measuring Instrument Advisory Committee, Mr. Tim Pressley, Division Staff, recommended the addition of three speed measuring instruments to the current listing of approved instruments, outlined in *Appendix A of the Supplement for Speed Measuring Instrument Training Courses*. The three approved instruments are as listed:

- “Stalker Patrol” moving/stationary RADAR
- “Stalker LIDAR XS” stationary LIDAR
- “Stalker LIDAR XLR” stationary LIDAR

Commissioner Melissa Hinnant proposed a **motion** to accept this recommendation, with a **second** from Commissioner Nathan Mizell, **motion carried**.

The Speed Measuring Instrument Advisory Committee recommended a revision to the language concerning the daily setup procedures and calibration routine for the Kustom Signals INC "Tracker" time-distance instrument in order to make the procedure more efficient. This revision would be added to *Appendix C of the Supplement for Speed Measuring Instrument Training Courses*. Commissioner Melissa Hinnant proposed a **motion** to accept this recommendation, with a **second** from Commissioner Nathan Mizell, **motion carried**.

The Speed Measuring Instrument Advisory Committee recommended denying the following instruments:

- MPH Industries Inc., "Speedgun Pro" moving/stationary RADAR system;
- DragonEye Technology Inc., "DragonEye Compact" LIDAR instrument;
- DragonEye Technology Inc., "DragonEye Speed" stationary LIDAR instrument;
- Laser Technologies Inc., "TruSpeed S" stationary LIDAR instrument

Mr. Pressley informed the Committee that one instrument's approval recommendation is currently pending: Laser Technologies, Inc. "TruSpeed LR" stationary LIDAR instrument, due to an interpretation issue with current wording of the light segment test. The SMI Committee would like to review the status of the recommendation for this instrument and present the findings to the Education and Training Committee meeting in August 2015.

Commissioner Robin Pendergraft noted there is a North Carolina General Statute that addresses the process of the Commission and the Department of Public Safety working together to approve or not approve speed measuring instruments, which are placed on a list. She explained that various industries submit their new instruments, and the instruments are tested under a very comprehensive process. The SMI Committee, through Division Staff, comes to the Education and Training Committee to recommend approval or denial. Over time, outdated instruments are transitioned off of the list.

Commissioner Melissa Hinnant proposed a **motion** to accept the SMI Committee's recommendation to deny the four (4) instruments listed above, with a **second** from Commissioner Lee Farnsworth, **motion carried**.

Mr. Tim Pressley also provided information and status about the current appeal of the denial of the DragonEye Technology Instrument to the Committee.

BLET REVISION COMMITTEE - Basic Law Enforcement Training Revisions

On behalf of the BLET Revision Committee, Ms. Jennifer Fisher, North Carolina Justice Academy, requested the approval of the following major revisions to the BLET training curriculum:

- *Domestic Violence Response (BLET:21Q)*: Various revisions were made to the training objectives and the content and clarifications on both NCGS 50B and 50C laws. A new video and a revised handout were added.

- *Elements of Criminal Law (BLET: 05O)*: Revisions were made to the training objectives and content to reflect statutory changes.
- *Firearms (BLET: 14N)*: One Training Objective was added and content was revised. The BLET Night Course of Fire was revised to remove the flashlight while shooting with the support hand at the five yard line. In addition, a requirement was added that trainees must demonstrate the ability to draw, fire, and reload the handgun with their support hand only.
- *Law Enforcement Driver Training (BLET: 18P)*: Minor revisions to the content and a handout. A revision was made to the Course Description Packet to add a safety barrier to the current cone practice/testing courses in the program.
- *Physical Fitness Training (BLET: 02S)*: Revisions were made to the height requirement of the four foot fence from ± 3 inches to ± 5 inches, video and a handout were revised.

Commissioner Lee Farnsworth proposed a **motion** to accept these recommendations, with a **second** from Commissioner Tracy McPherson, **motion carried**.

INFORMATIONAL ITEMS

On behalf of the BLET Revision Committee, Ms. Jennifer Fisher, North Carolina Justice Academy, requested the approval of the following minor revisions to the BLET training curriculum:

- *Civil Process (BLET: 18P)*: Handouts revised to reflect statutory changes and updated AOC forms were added.
- *Motor Vehicle Law (BLET: 17W)*: Revisions were made to the content based upon statutory changes regarding mopeds, a video revised, updated AOC forms added.
- *Rapid Deployment (BLET: 35G)*: Revisions were made regarding the two-man entry and the video was revised.

Mark Strickland introduced Marion Williams to the Committee. Marion is an intern assisting in the Legal Center at the North Carolina Justice Academy.

With no other business, Commissioner Lee Farnsworth proposed a **motion** to adjourn, with a **second** from Commissioner Melissa Hinnant, **motion carried**. The meeting adjourned at 3:55 p.m.

